Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Comprehensive Review of Universal Service Fund Management, Administration and Oversight	)))	WC Docket No. 05-195
	)	
Federal-State Joint Board on Universal Service	))	CC Docket No. 96-45
	)	
Schools and Libraries Universal Service Support Mechanism	))	CC Docket No. 02-6
	)	
Rural Health Care Support Mechanism	)	WC Docket No. 02-60
	)	
Lifeline and Link-Up	)	WC Docket No. 03-109
	)	
Changes to the Board of Directors for the National Exchange Carrier Association, Inc.	))	CC Docket No. 97-21

COMMENTS OF THE
NATIONAL EXCHANGE CARRIER ASSOCIATION, INC.

October 18, 2005

TABLE OF CONTENTS

SUMMARY

NECA's comments in this proceeding focus primarily on administration of the Commission's high cost universal service fund (USF) programs. In particular, NECA explains how existing interstate high cost support mechanisms have evolved from the Commission's access charge rules, and how these two vitally-important cost recovery mechanisms function in tandem to assure that rate of return telephone companies are able to offer universal service in high-cost regions of the United States and its territories.

NECA offers in these comments several suggestions that, if adopted, could substantially promote the timely and efficient distribution of high cost universal service support to NECA member companies. First, NECA shows that the Administrator, however chosen, needs to have thorough knowledge and understanding of the telecommunications industry as well as reasonable continuity over time. The Commission should also assure that the Administrator has procedures in place that permit issues and questions to be identified, managed, and resolved quickly. There should also be adequate opportunity for interested parties to express their views, as the Commission's universal service rules are applied to "real life" situations encountered by rate of return telephone companies operating in high cost areas.

NECA also suggests ways the Commission can reduce administrative burdens on program participants, and to improve the efficient and timely interchange of data between the USF Administrator and NECA. Such information is vital as the Administrator and NECA seek to fulfill their respective administrative responsibilities, and helps assure predictable and stable funds flows for eligible companies.

The Commission should leave in place existing Part 36 rules governing collection of High Cost Loop (HCL) data. NECA has extensive experience collecting HCL data from its member companies, and has instituted procedures that tightly integrate HCL data reviews with reviews of related access charge data. Requiring companies to submit data both to NECA and the universal service Administrator will result in duplicative submissions and increase administrative burdens on companies. Contrary to statements contained in the *Further Notice*, NECA in fact provides all HCL- related information to the Administrator, and is willing to work closely with companies and the Administrator to assure this information is as accurate as possible. There is, moreover, nothing that prevents the Commission and/or the Administrator from conducting additional reviews of these data as necessary. Thus, eliminating current NECA collection and review procedures for HCL data would likely decrease rather than increase confidence in the integrity of this information.

Finally, the Commission should assure that HCF audits are efficiently targeted to high risk areas and do not impose unfair burdens on any industry segment. Audit plans should recognize the extent to which companies are already reviewed by independent auditors, other agencies, and NECA, and should be designed to avoid burdening program beneficiaries with multiple overlapping reviews and audits.

NECA is pleased to have this opportunity to contribute to the Commission's review of universal service administration, and looks forward to working with the Commission and the Administrator to assure that high cost programs continue to be managed effectively and efficiently.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Comprehensive Review of Universal Service Fund Management, Administration and Oversight	)	WC Docket No. 05-195
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Schools and Libraries Universal Service Support Mechanism	)	CC Docket No. 02-6
	)	
Rural Health Care Support Mechanism	)	WC Docket No. 02-60
	)	
Lifeline and Link-Up	)	WC Docket No. 03-109
	)	
Changes to the Board of Directors for the National Exchange Carrier Association, Inc.	)	CC Docket No. 97-21

COMMENTS OF
THE NATIONAL EXCHANGE CARRIER ASSOCIATION, INC.

The Commission's *Further Notice*[1] in WC Docket No. 05-195 initiates a broad inquiry into the management and administration of the Universal Service Fund (USF), as well as the Commission's oversight of the USF and the USF Administrator.[2] The *Further Notice* also seeks comment on ways to deter waste, fraud, and abuse through audits of USF beneficiaries. In these comments, the National Exchange Carrier

---

[1] Comprehensive Review of Universal Service Fund Management, Administration and Oversight, WC Docket No. 05-195, *Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking*, 70 Fed. Reg. 41658 (2005) ("*Further Notice*").

[2] *Id.* at ¶ 1. The *Further Notice* generally asks for comment on ways to simplify the process for applying for USF support, speeding the disbursement process, simplifying the billing and collection process, and addressing issues relating to the Universal Service Administrative Company (USAC), the USF Administrator appointed by the Commission pursuant to its Part 54 Universal Service rules.

Association, Inc. (NECA)[3] describes the complex relationship between existing high cost universal service funding mechanisms and the interstate access charge cost recovery system, and offers several administrative suggestions that could promote the timely distribution of high cost funds to NECA member companies. NECA further recommends the Commission leave existing USF loop cost data procedures in place, and suggests ways the Commission can assure that audit plans are reasonable, fair, and efficiently targeted.

I. BACKGROUND

A. Commission Rules Governing NECA and the Administrator

NECA is a not-for-profit association established in 1983 pursuant to the Commission's *Access Charge Order* in CC Docket 78-72.[4] NECA was formed to act primarily as the interstate access tariff filing agent for incumbent local exchange carriers (ILECs) and administrator of the interstate access charge revenue pools. Currently, about 1,200 rate-of-return carriers choose to participate in one or more of NECA's access

[3] The National Exchange Carrier Association, Inc. (NECA) is a non-stock, non-profit association formed in 1983 pursuant to the Commission's Part 69 access charge rules. *See generally* 47 C.F.R. § 69.600 *et seq*. NECA is responsible for filing interstate access tariffs and administering associated revenue pools on behalf of incumbent local exchange carriers (ILECs) that choose to participate in these arrangements. Because the calculation of prospective interstate access rates and the management of monthly pool revenue distributions depend, in part, on high cost support flows, NECA has a direct interest in matters relating to administration of the high cost components of the Commission's universal service programs. NECA is also responsible for collecting high cost loop data from its member companies pursuant to part 36 of the Commission's rules, s*ee* 47 C.F.R. § 36.611-613, and also submits proposed average schedule formulas to the Commission, including formulas that govern distribution of high cost loop payments to qualified companies. NECA is also responsible for filing proposed modifications to the common line and traffic sensitive formulas for average schedule companies, s*ee generally* 47 C.F.R. § 69.606. Finally, NECA serves as administrator of the Commission's interstate Telecommunications Relay Services (TRS) fund. *See* 47 C.F.R. § 64.604(C)(5)(iii).

[4] MTS and WATS Market Structure, CC Docket No. 78-72, Phase I, *Third Report and Order*, 93 FCC 2d 241 (1983) (*Third Report and Order*).

charge tariffs and related revenue pools.[5] For the most part, NECA tariff participants provide telecommunications services in rural and other high-cost areas of the country and have a vital interest in the manner in which high cost universal service programs are administered. All ILECs are considered members of NECA and participate in the association via representation on its Board of Directors.[6]

Prior to January 1, 1998, NECA was also responsible for administering the Commission's interstate High Cost Fund (HCF), Long-Term Support (LTS) and Lifeline Assistance (LA) programs. These mechanisms, which pre-date the 1996 Act, were targeted originally at ILECs and were designed to assure that rates for local telephone service and interstate access remained affordable in high cost areas and available to low-income consumers.[7]

---

[5] NECA files two access tariffs with the Commission. NECA Tariff No. 5 establishes rates, terms and conditions for interstate access services. The Commission's rules permit ILECs to elect to participate in either or both the common line (CL) elements or traffic sensitive (TS) portions of NECA's tariff. *See* 47 C.F.R. § 69.3. NECA also files FCC Tariff No. 4 with the Commission. This tariff describes the location and technical capabilities of wire centers for both ILECs and competitive local exchange carriers (CLECs) and includes extensive interconnection information necessary for ordering, billing, and provisioning of interstate access services.

[6] NECA's Board structure is specified in section 69.602 of the Commission's rules and currently includes 15 members – two representing the Bell Operating Companies, two representing mid-size ILECs, six representing smaller companies, and five independent directors chosen by the NECA membership at large to represent all three subsets of ILECs. 47 C.F.R. § 69.602.

[7] Prior to implementation of the 1996 Act, ILECs with high loop and switching costs received support under special provisions of the Commission's Part 36 separations rules. Companies with loop costs exceeding 115% of the national average allocate a higher portion of their costs to the interstate high cost fund pursuant to section 36.631 of the Commission's rules, 47 C.F.R. § 36.631. Small companies with high switch-related costs received support via adjustments to the Dial Equipment Minute (DEM) separations factor specified in section 36.125 of the Commission's rules, 47 C.F.R. § 36.125. This "DEM weighting" component permitted small telephone companies to allocate additional costs to the interstate jurisdiction for recovery via interstate local switching access charges. In addition, prior to the 1996 Act, the Commission's Part 69 rules established LTS to offset interstate CL costs of NECA pool participants. Effective January 1, 1998, the Commission made these forms of support explicit under the HCL, LTS and LSS programs. Current relationships between loop costs, local switching costs, and interstate access rates are described in more detail below.

Following the Telecommunications Act of 1996 the Commission made funding under these mechanisms available to qualified competitive eligible telecommunications carriers (CETCs) as well as to ILECs, and established new high cost support programs for non-rural carriers as well as programs that support the provision of telecommunication services to schools, libraries and rural health care providers.[8] In view of this significant expansion in scope and participation in universal service funding mechanisms, the Commission directed NECA to create a subsidiary, the Universal Service Administrative Company (USAC), to act as USF Administrator.[9]

The Commission's Part 54 rules specify the Administrator's Board is to be composed of nineteen directors, nominated by a cross-section of telecommunications carriers, universal service program beneficiaries and other interested parties.[10] USAC board members are appointed by the Chairman of the FCC to serve three-year terms.[11] Although USAC continues to operate as a wholly-owned subsidiary of NECA, the

---

[8] *Further Notice* at ¶¶ 3-8.

[9] Changes to the Board of Directors of the National Exchange Carrier Association, Inc., CC Docket No. 97-21, Federal-State Joint Board on Universal Service, CC Docket No. 96-45, *Report and Order and Second Order on Reconsideration*, 12 FCC Rcd 18400 (1997). The Commission initially directed NECA to establish separate unaffiliated, not-for-profit corporations to manage specified portions of the Schools and Libraries program and the rural health care program, but ultimately reconsidered this decision and directed USAC to consolidate the three corporations into one. Changes to the Board of Directors of the National Exchange Carrier Association, Inc., CC Docket No. 97-21, Federal-State Joint Board on Universal Service, CC Docket No. 96-45, *Third Report and Order*, *Fourth Order on Reconsideration, and Eighth Order on Reconsideration*, 13 FCC Rcd 25058 (1998). The Commission also revised its Part 54 rules to require USAC to establish three internal divisions to focus, respectively, on the Schools and Libraries, Rural Health Care program and High-Cost and Low-Income programs. *Id.* at ¶ 12; *see also* 47 C.F.R. § 54.701(g).

[10] USAC Board members include representatives of large, mid-size and small ILECs, large and small interexchange carriers, commercial mobile radio service (CMRS) providers, competitive local exchange carriers (CLECs), cable companies, information service providers, schools, libraries, rural health care providers, low-income consumers, state telecommunication regulators, state consumer advocates, and USAC's CEO. *See* 47 C.F.R. § 54.703.

[11] 47 C.F.R. § 54.703(d).

Commission's rules require that its Board be separate from NECA's, and affirmatively prohibit NECA's Board from participating in the functions of the Administrator.[12] Commission rules also forbid the Administrator from making policy, interpreting unclear provisions of the statute or Commission rules, or interpreting the intent of Congress, and require the Administrator in the event of uncertainty to seek guidance from the Commission.[13]

These requirements reflect differences between USAC's functions as Universal Service Administrator and NECA's role as interstate access tariff filing agent for incumbent local exchange carriers. Members of the NECA Board, for example, are elected directly by NECA member companies and, with the exception of outside Directors who represent all members, are expected to represent the interests of their respective subsets with respect to NECA access tariffs and pooling functions.[14] The Commission has also imposed an affirmative duty on NECA to make initial interpretations of Commission rules, and to see that member companies abide by those interpretations with respect to submission of interstate access tariff and pooling data (subject, of course, to superseding determinations by the Commission).[15] NECA is also

[12] 47 C.F.R. § 54.703(a). Consistent with these rules, there are no common Directors or shared personnel between NECA and USAC, and the two companies operate in separate facilities, using separate equipment, networks and other systems.

[13] 47 C.F.R. § 54.702(c).

[14] 47 C.F.R. § 69.602(b) – (h). This governance structure was seen by the Commission as necessary for NECA to function effectively as tariff filing agent for member companies. Indeed, in establishing NECA the Commission specifically rejected proposals to require Commission staff or other non-ILECs to participate on NECA's board, finding that such involvement would compromise NECA's ability to perform its tariff filing function effectively. *Third Report and Order* at ¶ 345.

[15] *See* Safeguards to Improve the Administration of the Interstate Access Tariff and Revenue Distribution Processes, CC Docket No. 93-6, Consideration of NECA's Incentive Compensation Plan, AAD 95-34, *Report and Order and Order to Show Cause*, 10 FCC Rcd 6243 (1995) at ¶ 44.

expected to advocate before the Commission and the courts on matters relating to its interstate access tariffs, and may take positions on other matters if it desires to do so.[16]

Although, as noted above, NECA's Board of Directors is not permitted under FCC rules to control the Administrator, the interrelated nature of the Commission's High Cost universal service programs and its access charge rules make it necessary for NECA and the Administrator to maintain a close working relationship. This is particularly important to assure a smooth interchange of data needed to calculate funding requirements for high cost support programs and prospective interstate access rates and for managing monthly pool revenue distributions. In the following section NECA describes its role with respect to collection and review of these data.

B. NECA Data Collection and Review Activities

NECA currently files interstate access tariffs on behalf of approximately 1,200 rate of return companies that choose to participate in its Common Line (CL) or Traffic Sensitive (TS) pools. Extensive cost and demand data must be obtained from participating companies in order to develop, file, and defend proposed rates for such a large number of companies. Since the Commission's rules require that access rates be filed on a prospective basis, NECA is required to develop sophisticated forecast models to project costs and demand levels from historic periods to future tariff "test" periods.[17] NECA also maintains on-line, remote access systems that permit member companies to report estimates of current data, receive settlements from (or contribute revenues

[16] Amendment and Clarification of Part 69 Rules Governing the National Exchange Carrier Association, CC Docket No. 87-2, *Memorandum Opinion and Order and Notice of Proposed Rulemaking*, 2 FCC Rcd 381 (1987) at ¶¶ 8-9.

[17] Material to be Filed in Support of 2005 Annual Access Tariff Filings, WCB/Pricing 05-22, *Tariff Review Plans*, 20 FCC Rcd 7639 (2005).

towards) the pools based on those initial estimates, and to update those estimates on a monthly basis for up to two years following each data month.

As the *Further Notice* recognizes, NECA is also responsible under the Commission's Part 36 rules for collecting loop cost data from its member companies, calculating the national average cost per loop, and reporting that information to the Commission and the USF Administrator on or before October 1st of each year.[18] Loop cost data are determined by analysis of Part 32 accounting information maintained uniquely by ILECs.[19] These data also are used to determine interstate access charge revenue requirements for rate of return local exchange carriers, and thus form the basis for both high cost loop universal service funding and NECA interstate access tariff rates.[20]

Participants in NECA's CL pool are eligible to receive Interstate Common Line Support (ICLS) as an additional form of high cost support. The ICLS mechanism was introduced by the Commission as part of its MAG proceeding,[21] where, consistent with

---

[18] 47 C.F.R. § 36.613.

[19] Part 32 accounting rules apply to "telephone companies", a term that encompasses ILECs. *See, e.g.*, Westgate Communications LLC d/b/a/ Weavtel Petition for Waiver of Sections 69.2(hh) and 69.601 of the Commission's Rules, WC Docket No. 05-58, Beaver Creek Telephone Company Petition for Waiver of Sections 69.2(hh) and 69.601 of the Commission's Rules, WC Docket No. 05-69, *Order*, DA 05-2269 (rel. Aug. 11, 2005).

[20] In the case of companies that choose to participate in NECA's tariff and pools on the basis of "cost" settlements, Part 32 and 36 accounting and separations data are determined on the basis of individualized cost studies conducted on an annual basis by each company. In the case of companies eligible to receive pool distributions on the basis of the interstate average schedules, NECA uses Part 32 account data as well as Part 36 separations data from a statistical sample of representative companies to develop formulas that simulate the results of performing interstate cost studies. *See generally*, Federal-State Joint Board on Universal Service, CC Docket No. 96-45, National Exchange Carrier Association, Inc. 2005 Modification of Average Schedule Universal Service Formulas, *Order*, 19 FCC Rcd 24998 (2004) at ¶ 3.

[21] Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers, Federal-State Joint Board on Universal Service, Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation, Prescribing the Authorized Rate of Return for Interstate Services of Local Exchange Carriers, CC Docket

its earlier *CALLS Order,* [22] the Commission determined that usage-based carrier common line charges should be phased-out for rate of return companies and replaced with explicit universal service funding.[23] ICLS amounts are available to rate of return companies to the extent their overall common line revenue requirements exceed common line revenues obtained from end user subscriber line charges and other tariffed common line rates.[24]

Companies with less than 50,000 access lines are entitled to receive Local Switching Support (LSS).[25] Carriers entitled to receive LSS set their tariffed local switching charges to recover the difference between support amounts, as determined according to a formula specified in part 54 of the Commission's rules, and each carrier's interstate local switching revenue requirement.

Both of these high cost mechanisms thus involve analysis of differences between rate of return company costs and amounts recovered via interstate access rates. In the case of ICLS, support amounts are determined by subtracting CL revenues from CL revenue requirements. In the case of LSS, tariff revenue requirements are determined by subtracting LSS amounts from interstate local switching revenue requirements.

Nos. 00-256, 96-45, 98-77, 98-166, *Second Report and Order and Further Notice of Proposed Rulemaking in CC Docket No. 00 256, Fifteenth Report and Order in CC Docket No. 96-45, and Report and Order in* CC Docket Nos. 98-77 and 98-166, 16 FCC Rcd 19613 (2001) (*MAG Order*).

[22] Access Charge Reform, CC Docket No. 96-262, Price Cap Performance Review for Local Exchange Carriers, CC Docket No. 94-1, Low-Volume Long Distance Users, CC Docket No. 99-249, Federal-State Joint Board on Universal Service, CC Docket No. 96-45, *Sixth Report and Order in CC Docket Nos. 96-262 and 94-1 Report and Order in CC Docket No. 99-249, Eleventh Report and Order in CC Docket No. 96-45*, 15 FCC Rcd 12962 (2000).

[23] Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers, CC Docket No. 00-256, Federal-State Joint Board on Universal Service, CC Docket No. 96-45, *Report and Order and Second Further Notice of Proposed Rulemaking,* 19 FCC Rcd 4122 (2004) at ¶ 54 (merging LTS into ICLS, effective July 2004).

[24] 47 C.F.R. § 54.901.

[25] 47 C.F.R. § 54.301.

For both mechanisms, accurate support flows depend on the availability of timely information to both NECA and the Administrator. Under the Commission's Part 54 rules, ICLS and LSS are provided on the basis of initial estimates submitted to the Administrator,[26] estimates which are later trued-up after actual interstate access costs and revenues, as determined by rate of return company cost studies, are completed. Adjustments to ICLS and LSS payments to reflect true-up submissions are processed in the second year following a given study year.

These true-up adjustments must be reflected both in the USF Administrator's records and NECA pooling data to effectuate accurate monthly distributions to pool members. Companies in NECA's CL and TS pools typically designate NECA as their agent for receipt of high cost funds. [27] NECA uses company-reported data as well as estimates of ICLS and LSS payment data to process monthly settlements for companies. These estimates are necessary because USAC actual payment data for ICLS and LSS is not available at the point in time when NECA must make settlement determinations.[28] Actual payment data is used in subsequent settlement cycles to adjust these amounts.

[26] 47 C.F.R. § 54.901.

[27] Carriers are required by USAC to designate an address for delivery of universal service support and may designate an agent for receipt of universal service support payments. Carriers do this by filing FCC Form 498 with USAC. Virtually all companies in NECA's common line and traffic sensitive pools have voluntarily elected to designate NECA as their legal agent for purposes of receiving and processing high cost fund universal service payments via NECA bank accounts.

[28] To obtain these ICLS and LSS data, NECA must rely on USAC. However, differences in the timing of NECA operations and USAC operations have complicated the process of obtaining this information and created unnecessary administrative complexity in managing the interstate access settlement process. In the discussion below in Section II, NECA offers some suggestions on how to improve this process so that program beneficiaries receive better reports regarding funds flows and there is less need for subsequent corrections of settlement statements each month.

As noted above, NECA is responsible under the Commission's Part 36 separations rules for collecting high cost loop (HCL) data from its member company ILECs and for reporting that information to the Commission and the Administrator. In this regard, NECA compiles an annual USF data report based on information provided by ILECs pursuant to Part 36 of the Commission's rules and submits this report, including Part 32 line-item detail, to USAC and the Commission on or about October 1st of each year.[29]

Nearly half of the companies participating in NECA's pools receive universal service funds and cost recovery distributions on the basis of the interstate average schedules (rather than company-specific costs). Under section 69.606(a) of the Commission's rules, NECA annually files proposed formulas that are used to estimate average schedule company costs, including HCL amounts, by reference to readily-available demand data such as access lines and minutes of use. NECA's proposed "access settlement" formulas are filed with the Commission on or about December 31st of each year. NECA files its HCL average schedule formula with the Commission on September 1st of each year.[30] Loop cost data derived from this formula are used by the

---

[29] The *Further Notice* requests comment on whether this data-collection function should be transferred to USAC. As discussed in more detail below, NECA believes that existing data collection processes allow for significant efficiencies and help avoid administrative burdens for member companies, and should therefore be left in place. Contrary to statements contained in the *Further Notice*, NECA provides USAC and the Commission with *all* the Part 32 high cost loop data it receives from ILECs pursuant to the Commission's Part 36 rules to calculate cost per loop and HCL expense adjustment amounts. USAC also receives all data underlying optional quarterly USF submissions. *See e.g.*, Universal Service Fund 2005 Submission of 2004 Study Results by the National Exchange Carrier Association (filed Sept. 30, 2005).

[30] Federal-State Joint Board on Universal Service, CC Docket No. 96-45, National Exchange Carrier Association, Inc. 2005 Modification of Average Schedule Universal Service Formulas, *Order*, 19 FCC Rcd 24998 (2004) at ¶ 7 (changing the filing date from October 1st to September 1st).

Administrator to determine HCL payments to qualified average schedule companies for the following year.

NECA has developed extensive and sophisticated methods for reviewing and validating the various tariff, pooling, and HCL data submitted by its member companies. These processes include cost study validations (data reviews and process reviews); focused cost study reviews; USF loop reviews; and a cost issues resolution process. NECA routinely reconciles all cost studies with financial data (compiled by member companies according to the Commission's Uniform System of Accounts). Where available, NECA also compares company-submitted data to supplemental data sources such as ARMIS reports.

In addition, NECA reviews on a periodic basis member companies' average schedule data submissions,[31] reports of billed revenues and other settlement submissions. NECA review procedures are conducted by teams of experienced and knowledgeable reviewers that have extensive training and continue to receive periodic guidance on how to perform reviews. Review teams are located in NECA region offices in Atlanta, Denver, Chicago, St. Louis, Omaha, Concord (CA) and Whippany (NJ). In conducting its reviews, NECA relies upon certified financial data, opinions issued to companies by their independent auditors, and data certified by company officials pursuant to the Commission's Part 69 rules. These processes are designed to ensure that data used for

[31] Average schedule data submissions encompass data necessary to calculate both access settlements and HCL payments under Commission-approved formulas.

developing interstate access tariffs, administration of access charge settlements, as well as high cost funding, is in compliance with Commission rules.[32]

NECA's review processes are subject to internal audits and are subject as well to extensive review by NECA's external independent auditor, in conformance with GAAS and the guidelines set forth in the AICPA Statement on Auditing Standards (SAS 70): Report on the Processing of Transactions by Service Organizations.[33] Each year, NECA's external auditor tests the effectiveness of NECA's control objectives and techniques, and reports on those procedures in a Service Auditor's Report. The Auditor's most recent Report was provided to the Commission in January 2005. It found the procedures and policies described in the Report provide reasonable assurance NECA's control objectives were achieved for the period under review (from October 16, 2003 through October 15, 2004). NECA's Service Auditor's reports from all prior periods have also been unqualified.

NECA's processes for HCL, ICLS and LSS data have been audited by USAC, and agreed-upon procedures audits of NECA's USF data processes have been conducted by USAC's external auditors. NECA procedures have also been reviewed by the Commission's external auditors and the FCC's Office of Inspector General has conducted surveys at most of NECA's region offices.[34]

---

[32] A detailed description of each of NECA's current review processes is attached as Appendix A.

[33] NECA obtains a "Type II" SAS report, which includes not only includes the service organization's description of controls as of a given point of time, but also includes detailed testing of the service organization's controls over a minimum six month period.

[34] NECA is working cooperatively with the FCC's Office of Inspector General to perform process surveys in the rest of NECA's Region offices.

While NECA's primary responsibilities, as described above, involve preparation of interstate access tariffs and administration of related revenue pools, as well as HCL data collection from its member ILECs, NECA has also served as administrator of the interstate Telecommunications Relay Services (TRS) fund since that fund's inception in 1993.[35] As part of that responsibility, NECA collects data on the costs of providing interstate TRS and related services, calculates nationwide average TRS rates, distributes TRS payments to relay service providers, and conducts review activities to assure that TRS cost reports and reimbursements are submitted in accordance with Commission rules. NECA also conducts extensive training for its member companies and other industry participants, publishes reports and studies relating to its member companies' technical service capabilities and cost characteristics,[36] and files at the Commission's request quarterly reports of interstate access usage levels.[37]

The preceding information is provided to help the Commission and interested members of the public understand the complex working-level relationships between the Commission's universal service programs and its interstate access charge rules. These relationships, as well as the substantial experience and extensive, cost-effective resources NECA has in place for reviewing and validating accounting and demand data from its

---

[35] Telecommunications Services for Individuals with Hearing and Speech Disabilities and Americans with Disabilities Act of 1990, CC Docket 90-571, *Order on Reconsideration, Second Report and Order and Further Notice of Proposed Rulemaking*, 8 FCC Rcd 1802 (1993). This Order provided that interstate TRS costs shall be recovered utilizing a shared-funding mechanism administered by NECA.

[36] *See e.g.*, National Exchange Carrier Association, Inc., *2003 Access Market Survey* "Fulfilling the Digital Dream" (2003); National Exchange Carrier Association, Inc., "Trends in Telecommunications Cost Recovery: The Impact on Rural America" (October 2002); National Exchange Carrier Association, Inc., "Middle Mile Broadband Cost Study" (2001).

[37] *See e.g.*, Letter from Patricia A. Chirico, NECA, to Marlene H. Dortch, FCC, (filed Sept. 16, 2005), (attaching the quarterly Minutes of Use Data and Summary of NECA Total Pool Results).

member ILECs, strongly complements the Administrator's functions and should be taken into account as the Commission considers the administrative issues raised in this proceeding.

II. DISCUSSION

A. Universal Service is Critically Dependent on Effective, Efficient and Responsive Program Administration

The *Further Notice* solicits comments on a number of specific management and oversight items with the intent of improving the accountability, management, efficiency and effectiveness of the administration of the USF. The Commission specifically seeks comment on whether it should replace the permanent, designated Administrator with another type of administrative structure or entity.[38]

Regardless of whether the Commission chooses to maintain the current administrative structure or make changes, it is vitally important that administration of the high-cost programs reflect thorough knowledge and understanding of the telecommunications industry, including the detailed requirements and circumstances of small, rural telecommunications carriers.

NECA pool participants rely heavily on high cost support to provide affordable, reliable state of the art telecommunications services in high cost areas.[39] These rate of return companies tend to be small and medium-sized businesses that have neither the time nor resources to interpret complex administrative procedures or analyze complicated

[38] *Further Notice* at ¶ 12.

[39] *See e.g.,* Comments of the National Exchange Carrier Association, Inc, CC Docket No. 01-92 (filed May 23, 2005) at 5, (showing that NECA pool members currently receive over $2.5 billion annually in USF disbursements, which represents 31% of pool members' total cost recovery).

changes in reimbursement amounts. An effective Administrator must therefore understand the special circumstances of small, rural companies that provide service in high cost areas.

Achievement of these goals requires that the Administrator have and retain extensive knowledge of USF programs, rules, procedures, and historical background. The Commission's current practice of specifying a "permanent" Administrator (subject to review) helps to achieve this objective. If the Commission instead elects to use competitive bidding processes to select an Administrator in the future, experience should count heavily in the selection process, and contracts should run for a relatively long term to assure continuity.

B. Suggested Process Improvements

The *Further Notice* asks a number of specific questions about how the management and administration of the universal service support programs can be improved. NECA offers the following recommendations that should be considered as part of this proceeding:

1. The Administrator should have processes that allow for diverse input from affected parties.

In addition to detailed knowledge of high cost programs and procedures, the Administrator should have the ability to identify issues that arise as the Commission's accounting and universal service rules are applied to "real-life" situations. Processes should be in place that enable the Administrator to take into account diverse input and expertise from affected companies. Requiring the Administrator to publish its procedures, as the *Further Notice* suggests, will make it easier for USF contributors and recipients to assure that reports and data submissions meet administrative specifications, and will also assist program participants in identifying questions in advance of incurring investments or expense in serving high cost areas. The Commission may also wish to consider requiring the Administrator to include in its periodic filings a section on pending issues or questions. Again, this will assist program participants to identify potential problems, and will enable interested parties to provide comments and suggestions for potential solutions before controversies arise.

The Commission should consider the establishment of an Advisory Council or similar organization that would assist the Administrator in identifying process and procedural issues relating to high cost mechanisms.[40] When it established the interstate TRS fund, the Commission required NECA to establish an Advisory Council to assist with resolving interstate TRS cost recovery issues. The TRS Advisory Council includes non-paid volunteers from the hearing and speech disability communities, TRS users, state regulators and relay administrators, interstate service providers, and TRS providers. These volunteers provide valuable "working level" assistance to NECA in its administration of the TRS fund. The advisory council process is undertaken in an open forum, and the Council's recommendations are filed with the Commission, which, in turn, seeks comment on the proposed recommendations before taking action.[41] It is possible that universal service administration would benefit from similar processes.[42]

[40] In 2003, for example, the Administrator convened a Task Force to study ways to promote E-rate program compliance and reduce waste, fraud, and abuse. *See* Letter from Cheryl L. Parrino, USAC, to Marlene H. Dortch, FCC, CC Docket No. 02-6 (filed Nov. 26, 2003).

[41] *See e.g.*, Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990, *Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate* (filed April 25, 2005); National Exchange Carrier Association (NECA) Submits the Payment Formula and Fund Size Estimate for Interstate Telecommunications Relay Services

2. *The Commission should streamline the data certification process.*

There are numerous FCC data forms that require certifications. In many cases, certifications must be made on paper forms with an original signature.[43] In some instances a separate letter on company letterhead is also required.[44] These certifications could be combined at least in some cases, and participating carriers should have the ability to certify data using electronic signatures.[45]

Similarly, the Administrator should not be required to impose harsh penalties on companies for minor errors associated with certifications and data submissions. In recent years the Commission has frequently been called upon to grant waivers of deadlines where carriers have failed to submit certifications or data submissions on time despite

---

(TRS) Fund for July 2005 Through June 2006, *Public Notice*, 20 FCC Rcd 8304 (2005); Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket No. 98-67, CG Docket No. 03-123, *Order*, 20 FCC Rcd 11405 (2005) (approving the April 2005 proposed payment formula and fund size).

[42] The Commission has established advisory councils in other contexts as well. For example, in October 1995, the Commission created the North American Numbering Council (NANC), composed of representatives of telecommunications carriers, regulators, cable providers, industry associations, vendors, and consumer advocates. The NANC makes recommendations to the Commission to help foster efficient and impartial number administration. *See generally*, Federal Advisory Committee Act, Pub. L. 92-463, § 1, Oct. 6, 1972, 86 Stat. 770.

[43] *See e.g.*, Forms 499-A and 499-Q, Telecommunications Reporting Worksheets; Form 497, Lifeline and Linkup; Form 498, Service Provider Identification Number; Forms 507, 508, and 509, Interstate Common Line Support (ICLS).

[44] *See e.g.*, ICLS Annual Certification Filing, http://www.universalservice.org/hc/download/pdf/ICLS%20Sample%20Letter.pdf

[45] *See* Electronic Signatures in Global and National Commerce Act, Public Law 106-229 (June 30, 2000); *See also*, Electronic Filing of Documents in Rulemaking Proceedings, GC Docket No. 97-113, *Report and Order*, 13 FCC Rcd 11322 (1998) at ¶ 12, (allowing electronic signatures for certifying documents using the Electronic Filing Comment System (ECFS)); and Revision of Part 22 of the Commission's Rules Governing the Public Mobile Services, CC Docket No. 92-115, *Report and Order*, 9 FCC Rcd 6513 (1994) (revising Section 1.743(e) of the Commission's rules to allow digital or electronic signatures for licensing applications to the Wireless Telecommunications Bureau).

having made reasonable efforts to comply with applicable deadlines.[46] Rigid adherence to such deadlines means that it is possible for carriers to lose support for an entire quarter, or even longer, if a certification or data submission deadline is missed by so much as a day. This imposes unnecessary and unreasonable burdens on small companies, who must incur significant expense and uncertainty associated with waiver petitions as a result of minor ministerial errors. Rule provisions prohibiting the Administrator from "interpreting" Commission rules notwithstanding, effective program Administration requires that the Administrator be given latitude to make reasonable judgments regarding compliance with deadlines and other ministerial matters.

3. The Commission should encourage the Administrator to provide timely and detailed information on disbursements to program beneficiaries and their agents.

Program beneficiaries should have access to the details of calculations that affect their universal service payments, and be given the opportunity to obtain explanations of these calculations. In the case of companies who rely on agents to process universal service payments, this information access should be extended to authorized agents as well.

As explained above, companies in NECA's CL and TS pools have designated NECA to act as their agent for receipt of universal service support payments. Payments are typically disbursed via individual ACH transactions. In NECA's case, this results in

[46] *See e.g.*, Federal-State Joint on Universal Service, CC Docket No. 96-45, Smithville Telephone Company, Inc. Petition for Waiver of Section 54.301 Local Switching Support Data Submission Reporting Date for an Average Schedule Company, *Order*, 19 FCC Rcd 8891 (2004) (granting a waiver of the October 1, 2003 LSS filing deadline to a company that missed the deadline due to staffing changes); Federal-State Joint on Universal Service, CC Docket No. 96-45, United States Cellular Corporation Petition for Waiver of Section 54.307(C) of the Commission's Rules and Regulations, *Order*, 19 FCC Rcd 12418 (2004) (granting a waiver of the line-count filing requirements).

over a thousand individual payments to NECA's bank account each month, with each payment accompanied by an individual E-mail statement.

In order to process these payments, NECA has made informal arrangements with the Administrator whereby the Administrator voluntarily provides reports of universal service payment amounts for individual companies. If the Administrator were to cease providing this information it would become impossible for NECA to adjust settlement calculations to pool participants. This would seriously impair NECA's ability to analyze pool earnings levels, as well as NECA's ability to provide accurate rate-of-return monitoring reports to the Commission. NECA pool members might also find it difficult in these circumstances to book accruals for interstate access settlements and to adjust those accruals over time. In contrast, effective and detailed exchanges of data between NECA and the Administrator serves the interests of the Administrator and program beneficiaries and should be strongly encouraged by the Commission.

NECA accordingly recommends the Commission require the Administrator to provide adequate detail regarding high cost fund payments and adjustments to member companies *and their authorized agents* on a timely basis. Similarly, the Commission should consider directing the Administrator to provide summary monthly disbursement data to agents that process payments on behalf of multiple program beneficiaries. Availability of summary data would improve service to fund recipients and assist agents and the Administrator in identifying and resolving potential anomalies.

Finally, the Administrator should also be required to provide USF payment data in sufficient detail to permit program recipients and their agents to understand support flows and reasons for any changes in month-to-month amounts. As the Commission is aware, a multitude of factors can cause high cost universal service payments to change.[47] As these changes occur, questions inevitably arise from funding recipients as to the reasons why particular amounts change from expected levels. It would assist both fund recipients and their designated agents if sufficient information were available from the Administrator on a timely basis as to the reasons for such changes. This would allow NECA, company consultants and other agents to better assist companies in understanding the extent and implications of such changes.

4. Universal service high cost data should be reported in sufficient detail to permit meaningful review by interested parties.

USAC currently provides a number of reports relating to high cost program support data that in some cases could be enhanced to allow more in-depth analyses. For example, USAC Appendix HC-10[48] identifies per-line ICLS amounts available for competitive entrants, but there is no corresponding report on per-line HCL and LSS amounts (although the underlying data needed to make such calculations is available in the HC-05 and HC-08 Appendices). And while the HC-01 report provides data on total support amounts paid to carriers, it would be helpful to have more detail on how these amounts are derived both for CETCs and for ILECs that have opted to disaggregate support amounts.

Based on USAC's 4Q2005 quarterly submission, US Cellular in Iowa (359016) receives over $5 Million per quarter in high cost support, more than four times the next

[47] *E.g.*, submission of quarterly update filings pursuant to section 36.612 of the Commission's rules, LSS and ICLS true-ups, corrections for errors and omissions, *etc.*

[48] http://www.universalservice.org/overview/filings/2005/Q4/HC10%20-%20Interstate%20Common%20Line%20Support%20Projected%20Per%20Line%204Q2005.xls

largest recipient of support in Iowa (which also happens to be a CETC), and more than seven times the quarterly support for the largest ILEC recipient. But the reports do not explain the manner in which support amounts for CETCs are calculated. This information, if provided, could allow interested parties to compare and verify support amounts and perhaps assist the Commission in identifying potential instances of fraud, waste and abuse of funds. The Commission should accordingly direct the Administrator to provide information on CETC and ILEC funding in sufficient detail to analyze support payments for all recipients.

5. The Commission Should Develop More Reasonable Procedures for Implementing Federal "Red Light" Rules.

Pursuant to the Debt Collection Improvement Act of 1996,[49] the Commission has adopted rules that require entities or individuals doing business with the Commission to pay their debts in a timely manner. Under the Commission's "Red Light Rule", action on applications and requests for benefits – including high cost fund distributions – is withheld immediately when a program beneficiary is believed to be delinquent in non-tax debts owed to the Commission.

Rigid application of the "Red Light Rule" to USF program distributions has resulted in a number of anomalous situations that have the unintended effect of disrupting universal service payments. NECA is aware of instances, for example, where companies have been subjected to "Red Light" holds due to ministerial errors or software problems. There have been instances where companies have faced delays in receipt of tens or even

[49] Pub. L.No. 104-134, 110 Stat. 1321, 1358 (1996), *See also*, 47 C.F.R. § 1.1910.

hundreds of thousands of dollars as a result of unintentional payment shortfalls of only a few cents.

Although these issues are not explicitly raised in the *Further Notice*, the Commission should nevertheless consider the potential adverse impact of existing "Red Light" administrative procedures on universal service. For example, one way to avoid adverse impacts on companies would be to allow a grace period between the time a company is identified as having a potential payment delinquency and the time "red light" status is applied to universal service payments. The time period should be sufficient (e.g., 30 days) to allow a program recipient to become aware that a payment problem has been identified and to resolve the issue before payments are halted.

6. The Administrator's Performance Should be Reviewed Periodically.

The *Further Notice* asks whether the Commission should adopt rules requiring periodic review of the administration and management of the USF. It specifically asks commenters to discuss whether a triennial review, such as exists for the Commission's Local Competition rules, would be useful for purposes of universal service program administration, or whether such reviews should occur at different time intervals.[50]

Rather than conduct lengthy and time-consuming full-scale comment and reply proceedings at three-year intervals to investigate the Administrator's performance, NECA believes that the Commission should consider directing the Administrator to adopt less complex review mechanisms that can assure effective and responsive program administration without undue burdens on the Commission or the public. For example, the Commission could consider requiring the Administrator to obtain a Service Auditor's

[50] *Further Notice* at ¶ 66.

(SAS 70) Report from a qualified accounting firm each year. Such a report would provide assurance to the Commission and interested members of the public as to Administrative control procedures and proper handling of program data and funds.[51]

The Commission could also consider directing the Administrator to conduct annual independent surveys that measure overall customer satisfaction with the Administrator's performance. Survey questions could be targeted to important areas such as accuracy of support payments, sufficiency of data provided, responsiveness to customer inquiries and complaints, and other service-related measures of interest to contributors and beneficiaries. Such surveys can be useful tools for assessing administrative performance and provide an opportunity for program contributors and beneficiaries to voice concerns and express appreciation for service improvements as well.

C. The Commission Should Not Make Substantive Changes To High-Cost Universal Service Support Programs In This Administrative Proceeding, and Should Leave Existing HCL Data Collection Processes In Place.

The *Further Notice* asks a number of questions relating to performance measures and goals that might be used to track progress and efficiency for USF programs. These include, for example, proposals that would establish specific performance goals and targets for the Administrator and/or program participants. The *Further Notice* also requests comment on possible outcome, output and efficiency measures for the universal service fund and its individual components, including (with respect to the High Cost

[51] Section 54.717 of the Commission's rules, 47 C.F.R. § 54.717, requires the Administrator to obtain annual audits but it does not specify a SAS 70 audit as described above.

program) possible measurements based on telephone subscribership in urban vs. rural areas and/or comparisons of urban vs. rural rates.[52]

Studies that examine the extent of telephone penetration, deployment of advanced service facilities, rate disparities and other factors relating to universal service can provide valuable information for the Commission and interested parties in evaluating policy alternatives. As noted above, NECA itself conducts such studies on a periodic basis with respect to service deployment by participants in its traffic sensitive access charge pools.

The results of such studies may inform the Commission and the public on ways in which existing programs may be improved. They should not, however, have the effect of changing or reducing HCF support amounts to program beneficiaries. For example, proposals in the *Further Notice*[53] to establish "best practices" measurements to evaluate HCF program performance should not themselves result in substantive changes in support mechanisms – such changes should instead be considered, if at all, after careful review by the Federal-State Joint Board on Universal Service.

The *Further Notice* also asks for comment on whether existing Part 36 rules governing HCL expense adjustment procedures should be consolidated within the Commission's Part 54 universal service rules, and whether HCL expense and investment data should be submitted to USAC in addition to or instead of NECA. The Commission

[52] *Further Notice* at ¶ 92.

[53] *Id.*

also asks for comment on whether existing optional quarterly data updates should be made mandatory or eliminated.[54]

NECA recommends that existing Part 36 rules governing collection of ILEC loop count and investment data remain in place. As explained above, HCL data collection processes are tightly integrated with other types of ILEC cost and demand data collections relating to interstate access tariffs. NECA has extensive procedures in place to review submitted data. Re-creation or duplication of these procedures would be unnecessary, and could impose substantial undue administrative burdens on small companies.

The *Further Notice* assumes that NECA currently processes HCL information and performs the necessary calculations, but does not provide supporting Part 32 account documentation to USAC.[55] As noted above, this is not the case – NECA in fact provides the Administrator with *all* of the data it receives from its member ILECs relating to HCL expense adjustments.[56] This includes information associated with quarterly updates as well as a five-year data history.

NECA data review procedures – described above and in Appendix A – provide substantial assurance that the information on which HCL support payments are based is

[54] *Id.* at ¶ 41.

[55] *Id.* at ¶ 48.

[56] The *Further Notice* cites findings made by the Commission in a 2004 tariff investigation that NECA did not provide company-specific Part 32 accounting information as requested by the Commission. NECA in fact provided thousands of data items in response to the Commission's *Designation Order* in that proceeding. *See* July 1, 2004 Annual Access Charge Tariff Filings, WC Docket No. 04-372, *Direct Case of the National Exchange Carrier Association, Inc.* (filed Oct. 12, 2004). The fact that NECA was unable to reconstruct thousands of additional historical records, in the short time frame available in that proceeding, does not support a claim that NECA is unresponsive or fails to provide adequate data on reasonable request.

accurate. As part of the submitting HCL data to the Administrator and the Commission, NECA undertakes a review of submitted information, and requires that companies resolve inconsistencies and apparent data errors. This additional review step substantially improves data integrity and does not in any way inhibit similar or additional reviews by the Administrator and the Commission.

Moreover, NECA has worked with the Administrator to ensure that its processes are fully compliant with USAC's needs and standards, and these procedures are subject to annual reviews by NECA's independent auditors pursuant to Statement of Auditing Standards (SAS) 70 and have been audited by the Administrator and the Administrator's external auditors. NECA procedures have also been reviewed by the Commission's external auditors. Further, to the extent that the Administrator wishes to validate or review these data on its own, it retains the ability to do so.

Given the Commission's concerns regarding potential waste, fraud and abuse of universal service funds, it would seem illogical at this stage to reduce the number of entities responsible for reviewing HCL data. Should the Commission require companies to submit this data to the Administrator instead, it is likely that HCL administrative expenses would increase overall, since companies would need to submit most of the same data to both the Administrator (for HCL administration purposes) and to NECA (for access tariff and pool administration purposes). Considering the extensive review processes that NECA has in place for these data, and the need for NECA to obtain this information in any event for purposes of calculating access rates and validating pool data, the Commission should retain its existing Part 36 data collection rules.

With regard to voluntary quarterly updates, the Commission should bear in mind that under the current "capped" environment submission of voluntary updates by some companies typically has the effect of reducing support payments to other companies that either choose not to submit such updates or do not have the resources in place to do so.[57] Any changes made to this mechanism should recognize the interests of companies who choose to make voluntary updates during the course of the year with those of companies who, because of resource constraints or other factors, do not choose to make voluntary updates, but who nevertheless experience support reductions as a result of the cap on the High Cost Fund.

D. Audit Plans Should Be Targeted to High Risk Areas, Should Not Impose Undue Burdens on Any Industry Segment, and Should Take Into Account Existing Data Review Processes

The *Further Notice* seeks comment on ways to strengthen and improve the Commission's oversight of the high cost, low-income, schools and libraries and rural health care universal service support mechanisms.[58]

With respect to audits of high cost fund recipients, NECA urges the Commission to develop audit plans that are effectively and efficiently targeted at high-risk areas, and take into account the extensive audit and review requirements imposed on ILECs by other agencies including, for example, internal and external company auditors, state

[57] In 2004 and 2005, for example, approximately 20% of rural cost company study areas submitted updates each quarter (not all companies submitted updates in each quarter, however). In 2004 these updates (together with other factors such as corrections and revisions to previously-submitted data) increased the national average cost per loop by 3.3% from the level specified in NECA's annual data submission. In combination with other factors, these adjustments in turn decreased HCL funding available to non-submitting companies overall by 2.4% (with some companies experiencing higher percentage losses depending on the relationship between individual costs per loop and the national average cost per loop).

[58] *Further Notice* at ¶ 12.

regulators, the Rural Utilities Service, and NECA. Likewise, audit plans should cover all USF recipients equally, including CETCs whose share of the High Cost fund has been growing dramatically in recent years.

In addition, concerns over potential waste, fraud and abuse should not result in fund recipients becoming subject to inefficient or multiple overlapping reviews and audits. For this reason the Commission should consider establishing audit thresholds that target auditing resources to high-risk categories, with companies below the threshold subject to audit based on statistical sampling techniques.

In making risk assessments, the Commission should also take into account whether and to what extent companies are regulated and reviewed by other agencies. For example, the Commission should recognize that incumbent carriers are required to follow a uniform system of accounts, and have regularly provided regulators with historic data that are readily available for review and analysis without need for additional information requests. Data submitted by these companies to NECA have been continuously subjected to upfront edits and range checks that significantly reduce the probability of error. These factors should be considered strongly when developing audit risk analyses.

The scope and methodologies for audits should vary based on the USF mechanism and service provider type. For example, the audit methodology for the high cost fund for Cost Companies and Average Schedule Companies should be different, recognizing the different bases on which these companies obtain high cost fund assistance. Likewise, audit methodologies for CETCs will need to be different, devised for their different regulatory treatment and USF criteria. Audit burdens should also be equally imposed to the extent possible. Extensive reviews of ILEC accounting data, for example, may take up many days, if not weeks, of company managers' time and require substantial effort in responding to audit questions.

The Commission should establish program-specific audit guides to give guidance to auditors with respect to internal controls, compliance requirements, suggested audit procedures, and auditing report requirements. Further, in view of the complex nature of these programs, the Commission may wish to consider providing USF training for independent auditors, perhaps using outside consultants or industry experts skilled in this area.

Audits should distinguish between fraud, negligence, and unintentional ministerial error. In cases of ministerial error, penalties should not apply and the Commission should assure that no adverse consequences occur that could jeopardize universal service in high cost areas. In instances where there are adverse audit findings, auditees should be provided an opportunity to review findings and make comments on the audit report prior to finalization. Absent fraud or illegal acts, enforcement efforts for errors should be based on a *de minimis* test. Incurring significant administrative expenses, and imposing large burdens on auditees, to recoup small amounts, does not make sense.

If the Commission adopts debarment rules for the High Cost programs, any debarment should be applied to individuals rather than companies. ILECs are often the sole telecommunications provider for rural communities. Company debarment in these instances may therefore jeopardize universal service.

Finally, the Commission should not make audit results public. Under section 220(f) of the Telecommunications Act, Commission staff members involved in audits are expressly prohibited from making audit information public absent specific direction by the Commission or a court.[59] The Commission has a longstanding policy of treating information obtained from carriers in audits as confidential,[60] and should continue this practice. On the other hand, the Commission should consider ways that it could make public information relating to issues raised in one or more audits, so long as doing so does not compromise the identify of the company or companies involved. This information could significantly assist other companies in assuring rules compliance going forward.

III. CONCLUSION

It is vitally important that administration of high cost programs reflect thorough knowledge and understanding of the telecommunications industry and USF programs and procedures and that the Administrator, however chosen, retains the ability to identify, manage and resolve issues and questions quickly and in an open manner as rules and procedures are applied to real life situations.

The Commission should make every effort to reduce administrative burdens on program participants, and to encourage efficient and effective interchanges of data between the Administrator and NECA insofar as it is acting in its capacity as administrator of the Commission's access charge programs and as agent for its member companies for purposes of high cost fund distributions.

The Commission should also avoid making substantive changes in USF programs in the context of this administrative proceeding, and leave existing methods for collecting

[59] 47 U.S.C. § 220(f).

[60] Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission, GC Docket No. 96-55, *Report and Order,* 13 FCC Rcd. 24816 (1998) at ¶ 54.

HCL data in place. NECA has substantial experience in collecting HCL data from member ILECs and has procedures in place that tightly integrate HCL data collections and reviews with access charge data. Contrary to statements contained in the *Further Notice*, NECA in fact provides all HCL related information to the Administrator, and is willing to work closely with member companies and the Administrator to assure to the best of our ability that this information is as accurate as possible.

Finally, the Commission should assure that HCF audits are efficiently targeted to high risk areas and do not impose unfair burdens on any industry segment. Audit plans should recognize the extent to which companies are already reviewed by independent auditors, other agencies, and NECA, and should be designed to avoid burdening program beneficiaries with multiple overlapping reviews and audits.

Respectfully submitted,

NATIONAL EXCHANGE CARRIER
ASSOCIATION, Inc.

By:

Richard A. Askoff
Its Attorney

Teresa Evert
Senior Regulatory Manager

80 South Jefferson Road
Whippany, NJ 07981
973-884-8000

October 18, 2005

APPENDIX A

NECA Cost Study Review Processes

Cost studies are subjected to NECA's Cost Study Validation Process (CSVP) upon submission. The primary objective of NECA's cost study review process is to review cost study data for conformance with the Commission's rules for administration of NECA pool settlements, Universal Service Fund (USF) data reporting and access tariff filings. NECA's CSVP includes Data Reviews, Process Reviews, Cost Issue Conformance Reviews and Focused Cost Study Reviews. These procedures are described below.

1. The *Cost Study Data Review* is completed on all cost studies. Under the Data Review, all cost study data is reconciled to each company's financial data and entered into NECA's allocator to review for compliance with FCC Part 36 & 69 rules. NECA's allocator is a mechanized program that takes total company cost data and separates it between state and interstate and then from interstate into the various access elements based on FCC rules. The cost data is also subject to a variety of edits to determine reasonableness (i.e. negative balances, plant amounts with no associated expenses, etc.).

2. The *Process Review* is applied to selected exchange carriers (ECs) based on an assessment of risk factors. This review includes a full allocator reconciliation, which evaluates all differences by account and category in order to determine compliance with Commission rules. Differences that may indicate possible non-conformance with Parts 36, 65 and 69 rules are resolved by NECA Member Service Managers, who research, reconcile and document explanations for all significant differences.

3. *Cost Issues Conformance Review.* The Process Review also includes a cost issues compliance component, which checks each selected cost study for compliance with NECA's Cost Issues Manual. This review is intended to identify cost study discrepancies that may not have been detected by other Cost Study Validation steps. This process looks at recent issues that were addressed through the Cost Issues Process, to review for consistent treatment by all companies and consultants.

NECA's Cost Issues Manual consists of finalized issue resolutions, which are developed by NECA in conjunction with the Cost Issues Task Group (CITG). This is made up of exchange carriers, consultants, and NECA staff. The CITG's role is to review and discuss issues involving the application of FCC rules to particular situations. Once a cost issue is identified, a draft issue resolution is prepared and evaluated by NECA management. As part of this process, NECA may consult informally with the Commission on the treatment of particular items. If the proper application of a

Commission rule is still in doubt after these analyses are completed, NECA or involved member companies may file for clarification with the Commission.[61]

4. *Focused Cost Study Reviews* (FCSRs) are performed for selected study areas identified as having high risk based on prior experience, rule changes or other relevant factors. FCSRs include an in-depth review and analysis of specifically defined subject areas within selected exchange carrier cost study data. These may include broad categories of jurisdictional cost allocation and access cost allocation rules as set forth in Parts 32, 36, 64, 65 and 69 of the Commission's rules. Companies are selected for FCSRs at random or based on targeted selections that consider significant changes in a company's revenue requirement, unique or complex service arrangements or other information that suggests a more detailed review is warranted. FCSRs typically involve review of categorization data and allocation of cable/wire facilities, central office equipment, and traffic factor development. Non-regulated investment and expenses are reviewed, as well, to determine that amounts associated with these items are excluded from cost study submissions.

Other NECA Reviews

NECA also performs CABS (Carrier Access Billing System) Reviews, Average Schedule Reviews, Revenue Reviews, Universal Service Fund Data Reviews, Certification Reviews, Forecast Reviews, Loop Reviews and Settlement Reviews. These additional review procedures are discussed below.

1. CABS Reviews examine access usage and billing control procedures for companies and service bureaus or CABS vendors selected for review. This includes both manual review steps and automated processing of access usage input through a mechanized CABS Analysis Process program. The output of the mechanized program is compared against the output of the company's billing system for accuracy. Companies are reviewed based on a combination of random and targeted selections.

2. Average Schedule Reviews examine key settlement data inputs used by average schedule companies. This process includes reviewing network deployment schematics and methods for calculating specific components of line haul settlements. Companies are reviewed based on a combination of random and targeted selections.

3. Revenue Reviews verify that all cost and average schedule companies selected for review correctly report interstate access revenue and minutes of use to the Common Line (CL) and/or Traffic Sensitive (TS) pools. This process includes comparing NECA

[61] For example, the Commission recently received letters from GVNW and NECA regarding the proper treatment of amounts recorded in Account 4340. *See* Letter from Kenneth T. Burchett, GVNW, to Secretary, FCC (Jan. 23, 2004); Letter from James A. Stolz, NECA, to Stephen Burnett, FCC (Apr. 7, 2004). NECA has also communicated with the FCC on matters relating to submission of high cost loop data. *See, e.g.*, Letter from John Ricker, NECA, to Magalie Roman Salas, Secretary, FCC (Mar. 8, 1999) (requesting clarification of Part 36 rules related to affiliate leases).

computations of billed access amounts against data reported via the monthly settlement process. Companies are reviewed based on a combination of random and targeted selections.

4. Universal Service Fund (USF) Data Collection Reviews compare High Cost Loop (HCL) data items submitted to NECA pursuant to the Commission's Part 36 rules with company financial accounting information, such as ARMIS reports, accounting records, and cost studies. NECA's USF review procedures also contain a series of edit checks. Range variance tests compare current USF submissions to the prior year's submissions to identify data outliers. In cases where unusual changes or variations in cost per loop have occurred since the prior USF submission, companies are required to provide explanations of those changes. All companies who submit USF data are subject to this review.

5. Certifications. Section 69.601(c) of the Commission's rules requires that a company officer or authorized employee responsible for the preparation of data submitted to NECA certify all settlements data, cost study data and Universal Service Fund data. By certifying these data, the officer or employee indicates that information submitted to NECA is complete, accurate and consistent with the Commission's rules. NECA Member Services managers review member company files to assure that all data has been certified as required by Commission rules and orders. All companies are reviewed to ensure that certifications are received in a timely manner.

6. Forecast Reviews are used to review cost forecasts supporting NECA's annual access tariff filings. A mechanized model forecast program is used by NECA's Member Service managers to produce initial three-year cost forecasts for each cost company. The model forecast program automatically aggregates input from the prior year's cost study into the Tariff Review Plan (TRP) format. [62] This input level allows a more refined application of separations factors to respective accounts. All companies are subject to a forecast review.

NECA Member Service managers discuss NECA forecasts with each EC or their consultant. ECs can also provide their own forecasts which are then compared with NECA's forecast for consistency and reasonableness. Any significant differences are investigated and resolved. Each EC or consultant reviews its construction plans and operational changes before further processing. NECA then develops trend analysis reports at the TRP level of detail. These reports compare prior and current year cost studies with all three forecast years to identify large or unusual trend variances. Inconsistencies are investigated and reviewed for reasonableness and compliance with Commission rules and NECA procedures before the current year's forecast is finalized for ratemaking purposes.

[62] The prior year's cost study amounts, which have been previously reviewed for compliance with Commission rules, are adjusted for anticipated growth factors, changes in EC operational characteristics and any known changes in Commission rules from the prior year.

7. Loop Reviews are performed to ensure the proper count and classification of loops as reported for cost study and USF purposes. Reported data is compared to company source documents to review for proper treatment of message and special access loops, official loops and test loops. These reviews are done on a selected basis, generally in conjunction with the revenue reviews.

8. Settlement Reviews: The objective of the Pooling and Settlements Review Process is to review monthly settlements data for accuracy. NECA personnel perform both pre- and post-settlement analysis on all monthly settlement data submitted by ECs and consultants.

After the pre-settlement analysis, performed for all ECs, data is reviewed to determine the reasons for range failures. This review may consist of analyses of EC historical or forecast data and discussions with companies so that timely adjustments can be made to cost and average schedule settlements data prior to monthly processing.

NECA personnel also verify that adjustments are received from specific ECs to correct problems identified during the previous month's post processing analysis. NECA's override capability (the ability to change data reported by an EC after settlement data lock) is either approved by an EC when it determines that it has incorrectly reported data, or when NECA's executive management determines that the data is inaccurate and requires revision. NECA uses this override process to ensure compliance with pool procedures and Commission rules. NECA also performs a reasonableness review at the total pool level to ensure that all significant variances have been detected.

A post-settlement analysis is performed to determine if ECs are in compliance with the NECA Pool Administration Procedures with regard to truing-up data estimates within the specified time frames. If an EC has not trued-up as specified, NECA will then review its file on the EC for possible explanations or contact the EC for an explanation. NECA also compares the ECs' latest monthly pool input data with those of the past several months, which identifies any anomalies in data submitted by the ECs. If further analysis does not provide a reasonable explanation for any significant deviations, the discrepancies are investigated and resolved with the EC. In addition to the above, various analyses are conducted each month after monthly settlement processing. NECA compares prior and current year cost trends with related pool actual and final cost study amounts. Significant differences are investigated and reviewed for compliance with Commission rules and NECA procedures.

Cost Study Compliance Reports: Under section 69.605(e) of the Commission's rules, NECA is required to file an annual report of cost study review activities that result in changes to company CL or TS revenue requirements of ten percent or more.

Auditing

NECA's Internal Audit department audits NECA's Cost Study review procedures, CAR review procedures, the USF Review Process, and Forecast Review Process on an annual basis. These internal audits are designed to assure that all of the required reviews are completed and conducted in accordance with NECA's procedures, and that corrective action is taken where necessary. The internal audits also determine whether required reviews are made for cost issues compliance, EC certification of the data, and conformance of data with the Commission's Accounting, Separations and Cost Allocation rules. Internal audits also cover NECA's Pooling Administration and Settlement review work with specific testing of operational reports and data processing controls.

The Internal Audit department issues written reports on all audits conducted and transmits them to NECA management for information and corrective action. Internal Audit also ensures that NECA management complete all recommended corrective actions. Follow up reports are reviewed by the Audit Committee of NECA's Board of Directors.

In addition to its internal auditing activities, NECA also engages its external, independent auditors to conduct an annual Third Party Review conforming with the guidelines set forth in the AICPA Statement on Auditing Standards (SAS 70 Type II): Report on the Processing of Transactions by Service Organizations. The Service Auditor's Report outlines specific procedures and controls present in NECA's operation of the Interstate Access Pool and Universal Service Fund systems, and tests performed by the auditor to assure compliance with those procedures and controls.

CERTIFICATE OF SERVICE

I hereby certify that a copy of NECA's Comments was served this 18th day of October 2005, by electronic filing and e-mail to the persons listed below.

By: /s/ Elizabeth R. Newson
Elizabeth R. Newson

The following parties were served:

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC. 20554*

Warren Firschein
Federal Communications Commission
Wireline Competition Bureau
TAPD
445 12th Street, SW
Washington, DC 20554
Warren.Firschein@fcc.gov

Mika Savir
Federal Communications Commission
Wireline Competition Bureau
TAPD
445 12th Street, SW
Washington, DC 20554
Mika.Savir@fcc.gov

Best Copy and Printing, Inc.
Room CY-B402
445 12th Street, SW
Washington, DC 20554
fcc@bcpiweb.com

*Filed via ECFS